

# Language Proficiency and Migration: An Argument Against Testing

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## 1 Introduction

Powered by the daily reports of drowning refugees or ill-managed camps, uncoordinated or unfair border control, the issue of justice in immigration has become a well-established field of research (Carens 2013; Fine and Ypi 2016; Miller 2016; Sager 2016b). While almost every aspect of fairness is covered by the theory of migration, civic integration programs in general, and the language expectations in particular, have not yet received sufficient attention. In many democracies, the rules of such programs have been designed to become the new architecture of immigration policies, and the language requirement is used not only as part of the conditions for naturalization but also as a “pre-entry barrier” (Goodman 2011) used against migrants.<sup>1</sup>

<sup>1</sup>We do not discuss the sovereign right of states to legalize or constitutionalize official or national languages; that is part of another debate on language rights, for “new minorities” or “historical nations” in particular Kymlicka (2001) and Kymlicka and Banting (2006). Our empirical starting point is a “conventional view,” namely, the current situation in which most states have official or national languages and legitimately control the access to public institutions, citizenship, and territory. These are considered as “club goods,” e.g., excludable while not necessarily rivalrous goods (Carens 2013; Buchanan 1965). We however question the legitimacy of states, when languages are considered as excludable club goods. See n. 6.

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We usually fail to see the conceptual continuum between immigration on the one hand and application for citizenship on the other hand;<sup>2</sup> the academic literature therefore seems to be divided into two strands of research. A broad debate on the legitimacy of boundaries on the one hand, exploring the rights and wrongs of political states to restrict entrance and (full) participation in the democratic polity,<sup>3</sup> and another debate rather concerned with the content of pre-entry barriers for denizens or civic integration programs on the other hand. Although they overlap in important areas, namely, when they discuss the status of migrants compared to citizens (the rights and duties of citizenship versus admittance or granting of long-term residency); when they assess the fairness of rationing or selecting migrants; or when they evaluate the type of compliance with domestic rules states require before granting entrance, residency, or citizenship, the debates are led from different perspectives. The former is concerned with the large picture (under what conditions is a political state justified in restricting immigration?), whereas the latter rather looks at the nature of the demands on behalf of the migrants and their compatibility with liberal-democratic policies. Depending on the countries, the requirements cover political, economic, cultural, and moral aspects of residency and citizenship. This chapter deals with one item of these requirements, in our view a particularly problematic one: language skills.

Pre-entry checklists as well as citizenship tests usually require immigrants or would-be citizens to pass language tests or to undergo (verified) language training in some form. Language testing has so far received poor attention in political theory. Compared to the sophistication of the tools used to debate the fairness of boundaries (Benhabib 2004; Abizadeh 2008; Pevnick 2011) or the legitimacy of testing knowledge of national history, values, or political institutions (Brooks 2016), the evaluation of language skills as a significant contribution to social cohesion, stability, durability, and the democratic liveliness of the host society is either under-conceptualized or non-explicit.

Our paper aims at questioning the rationale for language testing in immigration policies. Although we consider knowledge of the host country's language(s) useful and meaningful for both the migrant and the host society in terms of autonomy, social mobility, non-domination, and upward mobility (Bleakley and Chin 2010; Adserà and Pytliková 2015; Grin and Gazzola 2013; Borjas 1999), we argue that *mandatory* language testing cannot be justified. Our purpose in this chapter is to offer justifications for rejecting language as a legitimate tool for controlling the borders and to regulate citizenship of a liberal democracy.

In this chapter, we focus on fair immigration and naturalization policies, not on fair language policies per se.<sup>4</sup> Our working definition of language is min-

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<sup>2</sup>The most recent and convincing attempt to bridge the gap between immigration and citizenship is De Schutter and Ypi (2015).

<sup>3</sup>We are concerned only with democracies in this chapter.

<sup>4</sup>Much has been written about the fairest balance between official and minority languages and about the services immigrants, residents, and minorities can and should expect from the state.

imal and quite straightforward: we embrace a soft instrumentalist definition of language (De Schutter 2007: 9), acknowledging its importance for identity as an individual speaker or as a member of a community, while giving priority to the political interests either not to be coerced into learning a language or to promote a *homogeneous* speech community. If language is part of our cultural identity (and consequently a sign of membership in particular speech communities), it is also, maybe primarily, a tool to connect people and interact meaningfully within *political* communities. We ask whether a common language, though useful for a lively deliberative democracy and for self-government, is a necessary condition for democratic debate, and whether it should be enforced through the control of access to territory and citizenship.

We are interested in the reasons why the evaluation of linguistic skills is used to regulate immigration and shape the degree of societal pluralism, and we argue that testing the language skills of immigrants is generally unnecessary because the tests fail to live up to their goals. They are *inefficient* in creating linguistically homogeneous communities, *unnecessary* in terms of democratic deliberation, and *unfair* because they aim at an additional “political” competence that is not required for citizens. Following the distinction used by Carens (2013) between requirements and incentives, we will argue against *mandatory testing* of linguistic skills but in favor of *educational incentives* to learn the main (official state) language(s).

We start by describing the political context and the normative justifications for testing immigrants in European countries. We then question the rationale for citizenship tests in general and contrast the criticism they inspire on the one hand with the consensus that membership in a *demos* remains a substantive commitment, which ought to be expressed through language proficiency on the other hand. In Sect. 2, we look at the different types of immigrants who are subjected to the tests and challenge the argument that language proficiency should be mandatory. We argue that even if mastering the common language(s) is desirable for the newcomers themselves, since they have a reasonable interest in social mobility and employability, this does not per se justify the coercion linguistic tests represent. We argue that neither nationalists nor liberals can justify this coercion and explain why their arguments eventually conflate language proficiency and political competence. In Sect. 3, we provide an argument in favor of free language training as a democratic right. Admission should be granted without pre-entry proficiency tests, but once admitted, immigrants and applicants for citizenship should have a right to free language training, in order to take part in the self-governing polity.

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This is not the place to discuss these matters. For an overview of the literature, see Kymlicka and Patten’s Introduction to their *Language Rights and Political Theory* (2003); more recently, see Alcade (2015).

## 2 Citizenship Tests: E Pluribus Unum?

Given the “fact of pluralism” (Rawls 1996: 188) and what Ronald Schmidt (2014: 396) has called “ontological multilingualism,” the general goal of liberal democracies is to define a “common good” that encompasses the scope of an acceptable, agreed upon form of pluralism. The problem of sustaining a fair democratic community while remaining open to social, religious, and political diversity and accommodating minorities has mainly been tackled from the inside, namely, through the lens of cultural liberalism, multiculturalism, or status group legal pluralism (Tamir 1993; Kymlicka 2001; Appiah 2005; Song 2007).<sup>5</sup>

Shifting the focus to admission of aliens and naturalization policies allows to get a better picture of what kind of common good democracies really value and how they set their priorities in defining whom to admit and whom to exclude. When states issue specific requirements for newcomers (as they have been doing in the last decades), they generally express distrust toward pluralism and immigration, but they also explicitly spell out values or practices deemed important to be sustained, protected, and agreed upon, namely, via citizenship tests and contracts (Barker 2015). The content of the common good varies among democracies but also vis-à-vis the type of newcomer (states typically differentiate between refugees, asylum seekers, and applicants for residency or citizenship). Lately liberal democracies seem less concerned with defining their primordial, unique, or distinctive cultural identity substantively and rather factor important political values into (immigration) laws. These political values are not less cultural in a sense, but newcomers are not, in principle, required to let go of their genuine identities to be considered “one of us” but should instead express loyalty to a set of political values of the host country and, among these, language.

For several years now, European countries run citizenship or immigration tests. The aim is to clarify and to monitor the process immigrants have to undergo in order to become (long-term) residents or for purposes of naturalization. They have been used in the USA, Canada, and famously in Australia (Löwenheim and Gazit 2009) and have now been adopted by various EU countries (Van Oers et al. 2010). The general distrust vis-à-vis religious and cultural diversity; the global anxiety about religious fanaticism, cultural diversity, and anti-multiculturalism, alongside with social and economic crises; and a general skepticism vis-à-vis our welfare institutions probably contribute to explain the wave of testing throughout Europe (Parekh 2006; Bigo 2009; Kymlicka 2012; Parkin 2013).<sup>6</sup>

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<sup>5</sup>And the literature on global justice of course; but again this is not the place to discuss this in a more thorough fashion.

<sup>6</sup>Languages are, *in principle*, non-excludable goods with positive network externalities (De Swaan 2001), but citizens and members of political communities may view their (national, official) language as excludable “club goods,” in other words restricted to a specific constituency or accessible only via cost-sharing, in our case the material and symbolic efforts (language acquisition) to be carried out by newcomers.

On the surface, these tests are designed, on behalf of the state, to assess the willingness and the ability of residents or would-be citizens to become members of the political community (of the citizenry in the case of the former, of the demos in the case of the latter (Bauböck 2015a)). On behalf of the immigrant, taking the test is supposed to be a proof of sincerity and good will, the desire to learn some basic cultural and political facts about the host country, and/or more substantially a wish to significantly participate and succeed in the community's social, economic, and political life (Mason 2014).

Given that democracies are ought to duly justify their practices to the affected or subjected individuals,<sup>7</sup> how do they *justify* testing citizenship?

The normative justifications range from selectiveness and skill sensitivity to the legitimacy of evaluating compatibility with European values of democracy, equality, and liberty. Politically, they are supposed to have positive side effects on European public opinions, generally hostile to immigration from outside the EU (European Commission 2014: 33). In order to satisfy these a priori goals of the receiving state, immigrants supposedly need language skills. Language seems to be the metonymy of a whole range of other qualities and values. The meritocratic or egalitarian advantage of the tests, especially language tests, is the ability to evaluate these skills *objectively* and *neutrally*. Although none of these expectations runs against broadly defined liberal principles, the question whether language skills are functional requirements or substantive prerequisites remains open.

Let us now try to disaggregate the justificatory arguments of the tests. If citizenships tests are meant to objectively evaluate to what extent a newcomer understands and complies with the state's national values, citizenship is framed as a *reward* based on objectified criteria. For several reasons, however, the neutrality argument does not hold.

From a civic-democratic fairness point of view, citizenship tests indeed came under attack from different sides. The consensus among critiques is that there is something unfair about too "thick" requirements, e.g., citizenship tests that expect thorough knowledge of domestic and sometimes parochial culture. "Cultural" citizenship tests, enacted in the Netherlands targeting Muslims, for example, are unfair by any standard (De Leeuw and Van Wichelen 2012); so are the German tests when they expect familiarity with past victories of national soccer teams; and the British version is unfair too when expected knowledge of "facts that are purely trivial and lack practical significance" (Brooks 2013)<sup>8</sup> is required as opposed to "purely political" tests (Joppke 2007).

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<sup>7</sup>For various interpretations of this criterion of democratic legitimacy, see, for instance, Dahl (1970), Shapiro (1999a), Lopez-Guerra (2005), Beckman (2006), Goodin (2007), Benhabib (2011), and Näsström (2011).

<sup>8</sup>For instance, as reported by Brooks (2013), the first test expected immigrants to know the birth (1759) and death (1851) dates of Sake Dean Mahomet, credited with opening the UK's first curry house in 1810. Participants were also required to know the name and nationality of his wife (Jane Daly, Irish) and the street where his restaurant was situated (George Street, London).

Furthermore, justifications for testing conceal a series of tacit ideologies, despite the claim for a new, neutral tool of evaluation, such as forms of protective nationalism calling for pre-entry barriers in order to insulate the cultural identity of a given society, to limit family reunification, or to “control the level and composition of immigration” (Goodman 2011). Tests are the last avatars of the myth of integration or assimilation into ex ante existing cultures and of the ideology of monocultural and monolingual communities (Blackledge 2009).

The nationalistic premise is obviously incompatible with neutral assessment of citizenship claims. As in all nationalistic polities, only members are entitled to enjoy full political partnership. But the tacit ideology or the nationalistic routine often ignores that coherent language communities are precisely the *result* of nationalizing policies, of the progressive (and coercive) integration of peripheral languages into the official tongue, and not an a priori characteristic of political communities. France is probably the worst-case scenario of such linguistic nationalizing policies (Busekist 2004, 2012), Québec, in a milder nationalistic way, rations its immigrants according to language skills.

What about the claim that sharing a language is useful for both parties and that language testing is consequently more acceptable than citizenship tests in general? Among academics there seems to be a “consensus [ ... ] that requiring language does not push citizenship tests across the threshold of discriminatory, illiberal practices” (Goodman 2010: 36). In other words, once we get rid of the cultural and historical questions—the thick cultural requirements—language expectations in citizenship tests are compatible with liberal evenhandedness (Carens 2013: 183; Benhabib 2011: 164). How convincing is this argument? Is it true that one can isolate language requirements from value requirements?

In France, for example, language appears as early as article 2 of the French Constitution (*la langue de la république est le français*) and entails significant duties on behalf of social and political actors and institutions (Busekist 2007). Language also plays a performative role and serves as an indicator of belonging and of “frenchness” (Busekist 2014). The (still powerful) nation-language-identity equation can be traced back to the French revolution and the proto-linguistic policies carried out by its proponents (Busekist 2004). Language proficiency is wed to other cultural and legal expectations, and the “Welcome and Integration Contract” [*Contrat d’accueil et d’intégration*]<sup>9</sup> does not say otherwise. Whether

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<sup>9</sup>The signature of the “contract” is supposed to be the necessary (but not sufficient) condition to obtain a 10-year residence card or to renew a temporary resident card. The contract clearly states what is expected from the migrant (which set of values she needs to accept) and the resources the state avails for integration. The contract lists the *values* of the French republic on the one hand (indivisibility, *laïcité*, gender equality, mandatory schooling for children under age 16, French language) and the *requisites* for integration on the other hand (civic instruction, language courses, medical checkup, professional skills assessment). There is no language test per se, but it is acknowledged that the newcomer has to learn the language, and the evaluation of this ability through official interviews will heavily count in the decision of the public official to grant a residence permit. There is in fact no need for an official test, since the entire process is based on the embeddedness of the “republican” values *in* French language, sometimes creating clear situations

this exclusionary approach to granting citizenship is due to the fear of numbers and alien cultural norms of migrants or to the fear of Anglophone hegemony is yet another debate. However, the *francophonie* argument is more commonly used in the French context to legitimize public policies regulating the production and diffusion of cultural goods (music, movies, etc.). The situation in Québec is quite different.

Here again, the “special relationship” between language and given territories is a historical and ideological legacy: on the one hand, we know that building states and nations has been carried out through cultural and political assimilation, language rationalization, and systematic exclusion of minority languages (Laitin 2000; Gellner 1983), but we fail to acknowledge—scholars and practitioners alike (Goodman 2010)—that we are the willing followers of exactly those policies on the other hand, assimilation into the normative culture through the official language(s).

Empirically, we know that purely monolingual polities belong to the past, but normatively we seem to be caught in the trap of methodological nationalism, despite our commitment to post-national or global *demoi* and despite our commitment to pluralism.

[The basic outline of liberal nationhood should] include relatively easy access to citizenship after, say three to five years of residency, with minimal tests of national integration, including knowledge of the national language, knowledge of national history and institutions, *and an oath of loyalty to the country and its constitution* (Emphasis added) (Kymlicka 2006: 136–137)

So, is language testing compatible with liberal-democratic pluralism? Can language testing avoid the traps of promoting a single conception of the good life? Is a polity entitled to condition access to its relevant institutions through language testing, or must we bite the bullet and admit that language testing belongs to the legitimate (and indeed unavoidable) policies of modern states?

These questions have been partially answered by sidestepping the dilemma: firstly, as De Schutter (2007, 17) recalls, “employing a neutral hands-off approach is unworkable with regard to *linguistic* diversity. [ ... ] [I]n making policies on, among other things, education or simply courtroom practices, states unavoidably have to make linguistic decisions: fully a-linguistic state policies simply do not exist.” Secondly, expecting language proficiency does not violate liberal neutrality principles regarding individual lives, since the specificity of language is its “exteriority,” as Joppke puts it. It is not about the inner beliefs of people; it is therefore compatible with liberal forms of loyalty (Bauböck and Joppke 2010). Finally, learning a new language is “capacity-enhancing, it does not deprive the individual of anything, least their ‘identity’.”

Proficiency in the official tongue is hence considered to be a fair expectation on behalf of the (nation) state, rather than a specific political competence or a sign of cultural affinity even among the defenders of open or porous borders. Consequently, language proficiency is a legitimate criterion for controlling access to citizenship or

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of discrimination. Hachimi Alaoui and Pélabay (2013) give the example of a veiled woman who, despite a flawless accent, will have fewer chances than “white” and apparently secular Canadians with a very heavy accent.

nationality from the point of view of the state. For migrants, host-country language skills may come with a cost as the means and opportunities to sustain their native languages vary greatly among democracies.

Interestingly, the consensus on desired language proficiency among scholars is not tied to any specific commitment to liberal, republican, or communitarian values. There seems to be a general agreement that membership in a *demos* remains a substantive commitment, which ought to be expressed through linguistic fluency. Republicans, as in France, are very straightforward about an intrinsic link between language and republican values, linguistic practice, and political praxis (Busekist 2004). On the liberal end of scholarship, Carens (2013: 183) sees “no reason for objecting to the *use of linguistic competence* as one factor in the selection of immigrants [emphasis added],” and Benhabib (2011: 164) argues that once the “right to membership” is “publicly and openly formulated, non-discriminatory, and compatible with international human rights agreements,” then “other conditions of membership *such as language fluency* may be plausibly stipulated [emphasis added].” On the cultural-liberal-multicultural end, authors such as Kymlicka (2001: 25), who promotes integration into a “societal culture” based on “*common language* and social institutions [emphasis added],” proficiency in the national language is also a necessary condition, among others, for citizenship. And even the dialogical or deliberation-based model of the political community tacitly or explicitly involves a common tongue (Euben 2007).

In short, aspiring to an inclusive society of equal and participative citizens *de facto* creates a linguistic barrier between those who can literally take part in the “(liberal) conversation” and the others (Ackerman 1980: 95).<sup>10</sup> The deceitful paradox of this line of argumentation (crossing ideal theory of open borders with an ideal definition of democracy) is then the following: sharing a common language (or languages) is the necessary clause for a lively participatory *domestic* democracy but also the rationale for drawing boundaries and excluding those who have a language deficiency (Kunnan 2012).

In short, we challenge the consensus among liberals, liberal culturalists, and republicans on language testing, by providing a more powerful yet equally liberal argument against it. A liberal democracy cannot duly justify language testing since it creates an unfair burden on non-native speakers. Even if an immigrant is not a refugee and has the choice to move into one specific country rather than another (Miller (2015) distinguishes immigrants along these lines), we argue

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<sup>10</sup>As one anonymous reviewer argues, one could say that this linguistic barrier does exist only until the immigrants learn the common language. But this hints to yet another problem, relating to the social equality of members, not the inequality between immigrants and citizens. Forms of discrimination continue to occur even when the language is well known; foreign/regional accents or the mastery of linguistic repertoires will be met by social or cultural discrimination (Bourdieu 1982). We should therefore distinguish between inequalities at an early stage of entrance on the territory where the lawmaking citizenry has an impact on the design of immigration laws and structural inequalities within the citizenry, namely, between those who speak the normative tongue and those who do not.



that we owe plausible justifications to those who are affected by coercion at our borders (Abizadeh 2008), that these justifications are not satisfactory so far, and that language testing distributes the burden inequitably among applicants, in other words fails the equal treatment clause if tests are mandatory. The burden is indeed “distributed unequally amongst applicant citizens, since the costs of additional language learning will vary according to linguistic background” (Shorten 2010: 111).

### **3 The Problem with Language Proficiency as a Sign of Political Competence**

In order to make our argument, we will now look at the different types of immigrants who are subjected to the tests. In the last section, we will then provide a positive argument in favor of language *training* as a *right* as opposed to *testing* as a *requirement*.

Let us first consider foreigners who aspire to enter the state and are subjected to language tests prior to any contact with the host society. In our view, the status of refugee or asylum seekers trumps any other entrance condition in the name of human rights and the obligation to assist (Convention relating to the Status of Refugees, UNHCR, 1951). There is no a priori need of cultural assimilation, nor any need for specific knowledge of the receiving state, consequently of language, since the goal is to protect vulnerable individuals.<sup>11</sup> Furthermore, in order to avoid any form of domination, it seems obvious that the host country would have to provide interpreters and translators to be sure that their claim is properly made and heard. There are a posteriori Charter duties regarding language for the receiving state, and there may be a genuine interest for the refugee to learn the host country’s language. But there cannot be an a priori obligation justified on fair terms.

We should add that language testing for refugees is often used to push a specific political agenda, hostile to immigrants from specific origins. There is evidence that language testing (more precisely language analysis) is primarily used to determine the geographical origins of the refugees, in order to evaluate the truthfulness of their claim to political asylum. While citizenship tests aim at evaluating the potential of integration into the host country, linguistic analysis looks at the genuineness of the migrant’s demands. Obtaining refugee status generally depends on the locus of origin and the fact that she faces an imminent danger in her home society. Language analysts are called in to identify the accent of the claimants in order to prove or disprove a genuine claim of persecution. But as MacNamara and Shohamy (2008) write, “linguists have raised concerns about the naïve ways in which the

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<sup>11</sup>This is very much in line with a general consensus regarding refugees and asylum seekers, although there is an ongoing discussion about alternative destinations: refugees and asylum seekers have a right to enter a state but not necessarily the state they have chosen (Miller 2015).

link between ways of speaking and speakers' origins are often investigated, as well as how the conclusions of these investigations are often used in decisions about speakers' claims to asylum" (see also Eades 2009 and more generally Fassin 2013).

Language testing is even more relevant for the ordinary admission of immigrants.<sup>12</sup> For liberal nationalists, as we have mentioned, taking language tests could be a fair sign of willingness to take part in the political life of this or that specific country since a claim to immigrate is supposed to be specific and relational: freedom of movement should encompass an adequate range of possible countries of migration, rather than the entire world (Miller 2007: 207).

Liberal nationalists are committed to the rule of law and a healthy welfare state. As nationalists, they believe in the legitimacy of protecting "shared beliefs and mutual commitments" in order to foster trust, cooperation, solidarity, and mutual protection and a right to a specific territory that is "marked off from other communities by its distinct public culture" (Miller 1995: 27). As liberals, they are committed to justice, and they believe that the proper functioning of a self-governing state should include mechanisms of adjudication between competing claims, rules of reciprocity, and justification: "Justice in immigration requires that the policy chosen should be legitimate, but it requires more than that—for instance [ ... ] that it does not discriminate between prospective immigrants on unjust grounds" (Miller 2015: 392).

The receiving state is hence entitled to require immigrants "to absorb some aspects of national culture as a condition of being admitted to citizenship" (Miller 2010: 250). Incentives are not enough, because, according to Miller, the interest of immigrants in learning the language or to apprehend the political culture may conflict with their interest in protecting traditional family values, ancestral languages, or communitarian ties. Consequently, "the policy [ ... ] of making access to citizenship conditional on passing a test, that requires, for example, a working knowledge of the national language, and some familiarity with the history and institutions of the country in question, can be defended on these grounds" (ibid.). But doesn't this argument ignore the interests of immigrants? The nationalist logic of the argument gives unquestioned priority to the values of the receiving state, as if culture and language were unified and territorially fixed once and for all (Sager 2016a).<sup>13</sup>

Let's nevertheless assume that language is indeed part of the public culture or rather that the public culture is expressed in a certain language and that without

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<sup>12</sup>For the sake of thoroughness, we should also mention tourists who have to apply for a visa in order to visit a country. There is no need to argue that language proficiency cannot be a condition for obtaining such a visa, since it would defeat the purpose of an economically efficient tourism. As Robert Dahl argues (1989), transients have no claim to participate in local politics since they will not endure the consequences of their participation; the brevity of their stay and their own unwillingness to take part socially or politically in the society make any form of linguistic requirement irrelevant.

<sup>13</sup>We referred to Buchanan's argument about excludable club goods earlier (see n. 1 and 6). The nationalistic logic we address here neatly fits his model.

a certain level of proficiency, integration is bound to fail. Instrumentally, being proficient in the receiving state's tongue would furthermore give the applicant's claim more weight as his potential compatibility and compliance with the host culture is measurable—at least idiomatically. However, even if we accept the idea that cultural affinity measured by language is valuable both for the immigrant and the host country (in terms of employability, personal autonomy, future participation, shared civic culture, upward mobility), it is not clear why language proficiency and language training should be *mandatory*, neither for family reunification<sup>14</sup> nor for permanent residence. In other words, liberal nationalists may be right in identifying language as one of the building blocks of citizenship, but they do not offer a proper justification for *coercive* testing.

Liberal nationalists need to offer a coherent justification as to why testing immigrants is *required*. We know that (language) integration is a process (Durkheim 1975; Portes 1995; Fishman 2012) and cannot be a desert-based privilege sanctioned by a test. The paradoxical logic at play here is that one needs to be already integrated (linguistically) in order to be considered fit for (political) integration. Languages are learnable, and language training is useful, but contact with native speakers probably remains the best way to acquire a new language. Pre-entry barriers therefore make no sense if we look at processes and timelines, learning, and acquisition, instead of photographs of the migrant skills taken the day they file their application.

Finally, language tests for would-be *nationals* are more plausible, since citizenship or nationality allegedly requires more loyalty, more rights, and more duties. It also seems more legitimate to expect active participation from people who have been living in the host country for several years (although this is self-fulfilling in most cases: residents who have been living in the host country usually master the official language(s)).

The ways in which citizenship is tested are good indicators for the political and normative understanding of citizenship. Ricky van Oers, for example (Van Oers et al. 2010), distinguishes three types of citizenship and analyzes how tests embody one or the other. Whether citizenship is defined as a legal status (liberalism), an activity (republicanism), or an identity (communitarianism), tests differ and are more or less culturally laden. We have written that for liberals, republicans, communitarians, or nationalists alike, linguistic tests are legitimate, because they express either the ability to actively participate politically or are signs of loyalty to the national culture and solidarity. Language proficiency is therefore highly desirable both for future citizens, because they can interact (autonomy) and take part in the political culture (deliberation), and for the polity, because it fosters cooperation and solidarity and ensures the sustainability of the domestic (political) culture. And we have argued that the desirability of having (a) common/official

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<sup>14</sup>As Carens (2013: 188) puts it: "Both the immigrants and the wider community will be much better off if the immigrants learn the official language. But these considerations do not justify the creation of barriers to the entry of immediate family members. The right of human beings to live with their immediate family members imposes a moral limit on the state's right simply to set its admissions policy as it chooses."

language(s) can be shared by the newcomers themselves since they have an interest in social mobility and employability (Blackledge 2009; Kahn 2004). But this does not per se justify the coercion that linguistic tests represent. Wishing that citizens speak the same language (or have at least one language in common) is quite different from coercing individuals to pass a linguistic test that conditions the distribution of membership.

In all these situations, tests conflate language proficiency and political competence, e.g., the specific ability to participate meaningfully in the host society's political life. If we take language proficiency as an a priori condition for membership for granted, there is no political participation without language proficiency, and reversely, political participation depends on a shared language. This argument is made in particular by proponents of a regional or global lingua franca. The assumption being that without such a common language, democratic deliberations are bound to fail or to exclude significant parts of the demos. But democratic participation is not related to any specific competences. Political scientists have long abandoned the belief that political competence is an individual "quality" that a policy maker (or any scholar for the same matter) can confidently evaluate (Blondiaux 2007; Landemore 2013; Landemore and Elster 2012); and political philosophers generally reject the Platonic ideal of competence in the name of democracy (Elkin and Soltan 1999). The very idea of testing proficiency leans on the ideal of a competent citizen, whose competence justifies participation. On the other side of the spectrum, deliberative theories of democracy show that competence is a collective endeavor that comes into existence through participation rather than beforehand (Manin 1987). But as we mentioned earlier, these theories also rely on an idealized monolingual forum where language proficiency is considered as an a priori competence (Schmidt 2014). Everything we know about migration precisely questions this and pushes deliberative theories to acknowledge that proficiency is a tacit competence that excludes a minority which is affected by the outcomes of deliberation. Competence should hence be analyzed as a collective issue: although it is important to be well-informed in order to participate, there are many ways to be informed in other languages than the official or common one.<sup>15</sup> The romanticized view of general deliberation where everyone speaks in a virtual agora is far too high an expectation (Shapiro 1999b). Social interactions and public discussions do matter for a democracy to work properly, but there is no reason for making

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<sup>15</sup>The issue of translation policies or of "translational justice" (Meylaerts 2011) is too far reaching for the scope of this chapter. The debate about rights (and accompanying public policies) to translation services has been going on for a while and has not been settled. Reine Meylaerts (2011) is right when she writes that "there is no language policy without a translation policy," and this is true in multilingual polities as well as for immigration policies. Translational justice is relevant for participatory democracy and non-domination because citizens should have a right to effectively communicate with the official authorities. Demands for translation services classically include legal translators (a claim must be properly heard) or multilingual ballots (participation). Current debates include linguistic challenges faced on a daily base: access to bureaucratic services healthcare, interaction with schools for parents with children, etc.

language proficiency a *necessary* condition for being a proper (a good—normatively defined) citizen. Language competence and political competence are two different types of skills, but language testing in citizenship contracts juxtaposes and conflates them. A routine social life might provide enough basic information (international media, neighbors, schools and parents organizations, associations, etc.) to be a well-informed citizen (Khubchandani 1997; Rodriguez 2006).

## 4 Teaching Instead of Testing

It is true nevertheless that language skills are *enabling* and that linguistic exclusion should not lead to situations of helplessness? Individuals should have access to language training in order to avoid domination (lack of autonomy) and humiliation (disparity of esteem). In this section, we will argue in favor of free language training as a democratic right.<sup>16</sup> Language disadvantages are detrimental to democratic equality and therefore to democratic participation. The argument for parity of participation is usually made in support of official common languages to foster a healthy “talkcentric” (Dryzek 1990) participatory territorial or national democracy; but parity of participation thanks to a common language is also supported by *lingue franche* proposals for “Europe and for the world” (Van Parijs 2011). Global egalitarian justice is better achieved in a common idiom, ideally connecting all citizens.<sup>17</sup>

A convincing account of the proper trade-off between liberal principles and principles of democratic coherence is Rainer Bauböck’s stakeholder model (2007, 2009, 2015a) combined with what he calls the “political value of languages” (Bauböck 2015b). He argues that the test for the legitimacy of boundaries “cannot be which border is more conducive to delivering social justice. We need to ask instead

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<sup>16</sup>One could say, as one reviewer did, that there is no such thing a “free language training.” But the same way public school is generally free of charge and financed by taxes, we argue that language training could equally be free and paid by the taxpayers who are the future citizens taking these classes. Expecting migrants to “give something back” for these courses would actually be like preventing emigration for citizens who have been trained in public schools. Distributional systems are not based on a strict reciprocal relation; there is room for delayed forms of loyalty and gratitude. Another argument could be made based on the idea of *basic interests*: education and language training concern basic interests of individuals and may be more or less unconditionally provided. This is why France, for instance, has a universal healthcare coverage for all residents, and police forces protect anyone in danger on its territory, regardless of the identity of the victims and without inquiring whether she is a citizen or a taxpayer.

<sup>17</sup>The global *lingua franca* (English) is tempered by coercive territorial linguistic regimes in order to sustain more vulnerable national or regional languages. The reason for sheltering these languages, and the reason for language communities to “grab a territory” in Van Parijs’ words, is justice related: individuals feel attached to their native tongues and may feel disparaged by living in the shade of greater languages: “In a just society, people must not be stigmatized, despised, disparaged or humiliated by virtue of their collective identity” (Van Parijs 2011: 119).

which territorial arrangement accommodates competing claims for self-government in such a way that it deserves to be supported by all” (Bauböck 2015b: 214).

But let’s start with the political value of languages. In a piece dedicated to the critique of Van Parijs’ territorial principle as a compensation for disparity of esteem felt by speakers of minority languages, Bauböck justifies territoriality in a useful way for our purpose. Instead of supporting territoriality and coercive language policies within given boundaries for the sake of social support for self-respect, he rightly notes that languages are foremost tools for self-government. Establishing (a) particular language(s) in a given polity is hence “the legitimate outcome of democratic procedures that have been suitably constrained by linguistic freedoms and minority rights” (Bauböck 2015b: 214), and not an a priori requirement for linguistic justice. He endorses an instrumental account of languages that does not impede on identity issues, since these are also framed in egalitarian democratic terms (identity claims are morally equal but constrained by legitimate rules of democratic self-government). He also seems to reject the fact that *individual* language rights are the building blocks of coercive territorial language regimes: it is rather that a language regime is a democratic choice “constrained by, but not derived from individual language rights” (Bauböck 2015b: 222; see also Peled 2011). In short, languages are tools for building self-governing policies. Self-government in that sense is the independent variable (with language as a tool), whereas language (as an identity marker) is the dependent variable. We hence ought to test the legitimacy of language laws by “asking whether they are the result of legitimate exercise of self-government powers” (Bauböck 2015b: 221).

Let’s now turn to the “stakeholder principle”:

It relies on two assumptions. The first one is that individuals have a basic interest in [such] membership both for *instrumental* reasons (in order to gain protection of their fundamental rights) and *intrinsic* reasons (because membership contributes to their self-respect and equality of respect by others). The second assumption is that citizens of a self-governing polity share at least a presumptive collective interest in preserving its autonomy and contributing to its flourishing. The stakeholder principle links these two assumptions by proposing that *those and only those individuals have a claim to membership whose individual autonomy and wellbeing is linked to the collective self-government and flourishing of a particular polity*. (Bauböck 2015a: 9 [emphasis added])

On first sight, the combination of the two arguments seems to be a powerful justification for the legitimacy of language requirements: given that language laws are the result of self-government powers (the outcome), and not an a priori requirement for fairness, self-governing bodies should be authorized to pass whatever language laws they deem necessary (within the limits of democratic rules). But that would suppose that (a) common language(s) are necessary resources for self-government; and (b) that language(s) per se ought to be protected, over individuals as equal bearers of rights. Neither is true, as Bauböck admits himself (Bauböck 2015b: 221–222). It would also suppose that there is a conceptual link between democratic politics and a common language. It may be true empirically that it is easier to fully participate in the democratic debate when mastering the common tongue (although many multilingual countries manage very well), but a common language is neither

a necessary nor a sufficient condition for lively democratic deliberation as we have argued above.

But overall, his account is consistent with our argument: admission of immigrants should be granted without pre-entry proficiency tests, but once admitted, immigrants and applicants for citizenship should have a right to language training, in order to take part in the self-governing polity. This right is purely instrumental or consequential in the sense that membership in the self-governing body (whether as residents<sup>18</sup> or as citizens) enables them to alter, influence, and shift language preferences (through municipal arrangements or general laws). In other words, language skills are political enabling skills, and not cultural admission tests or means to verify the compatibility of the migrant's language background with the host society's linguistic values. It is consequently a right for all immigrants to access the common good of language as an enabling skill.

What about the subsequent application for citizenship? We argued that naturalization should occur without language testing or attendance in language classes after a period of residency, the duration of which should be kept relatively short. Residents who wish to take up the citizenship of their host society should be welcomed without skepticism and helped in all possible ways, but the situation is necessarily asymmetrical. In accordance with his social membership principle, Carens (2013: 60) argues along these lines:

One may wish and hope that citizens will be well informed, but it is unreasonable to insist on knowledge of the dominant language for the sake of an idealized form of political information that typical native citizens do not possess. [ ... ] After several years of residence, ten at the most in my view, any language requirement should be set aside. Requiring immigrants to pass tests of linguistic capacity and civic knowledge as a condition of naturalization is ultimately unjust.

In short, either we argue in favor of mandatory citizenship independently from the interests of individuals or groups to acquire citizenship because citizenship is not only a right and a duty but a significant burden, and hence abolish the category of long-term residents,<sup>19</sup> or we acknowledge that there is nothing wrong with asymmetrical situations, as long as states do not pursue nationalistic and exclusive policies (a certain form of *thin* nationalism may be a *side effect* but should not be the main purpose (Tamir 1993)).

Mandatory attendance in language classes (a condition waived after a period of residency) may still seem too paternalistic a policy for true liberals. But combined

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<sup>18</sup>See Bauböck (2015a) on multilevel citizenship: *birthright* citizenship and *residence-based* membership.

<sup>19</sup>Because the alternative to mandatory citizenship, according to Helder De Schutter and Lea Ypi (2015: 15), "is not to have no linguistic or cultural others; the alternative is having a group of *non-citizen* linguistic or culturally others [ ... ]. Those who defend harsher citizenship acquisition rules oversee the result: not the absence of immigration, but the presence of more non-citizen immigrants [ ... ]." The authors also suggest that it is wrong to make democratic equality dependent on the contingency of immigrant's interests. The duty to take up citizenship should be a general rule in order to avoid a "life as a permanent guest."

with a series of services, incentives, and compensations, we believe that mandatory attendance can be justified. If the classes are free of charge and taught by qualified instructors, either in specific locations easily accessible (in schools, e.g., for parents with children, or even in joint classes with the children if the parents need alphabetization; on the workplace with specific agreements from employers) or possibly via the internet, costs and burdens would be significantly lowered and learning would be facilitated, especially when combined with other social practices and interactions.

## 5 Conclusion

Language requirements are justifiable under a specific balance of four provisos: (1) the way language skills affect economic integration and employability (a utilitarian perspective), (2) expected benefits of a common language for the public culture of the host country (a more substantive or axiological perspective), (3) the way in which language skills affect political rights (a parity of participation perspective), and (4) the way in which specific language requirements affect self-respect and parity of esteem (Van Parijs 2011) and what kind of linguistic arrangements offer a significant realm of choice and of opportunities (a good life perspective).

Let's check to conclude whether the type of thin language requirement we argued for is consistent with these provisos: (1) economic integration and employability would certainly be enhanced, especially if language classes are taught in a comprehensive way and in adapted locations. (2) The benefits for the public culture of the host society are instrumental, political, and moral. The communicative value of a common language is *instrumental*. The *political* value refers to the ability of participating in the self-governing polity in the usual tongue of the debates. We should not forget that politics is about more than words uttered in the right language: language courses taught in a comprehensive way are avenues into the history, the culture, and the institutions of the receiving state. The *moral* value of a common idiom can be captured by the "existential threat" Andrew Shorten refers to: ongoing immigration in the absence of language learning may have significant effects on the national distinctiveness people are legitimately attached to (Shorten 2010: 108). One can also argue that equality in language(s) is a moral attribute of political communities or that oldcomers expect newcomers to go through the same learning process and that a common language simply increases social cohesion. (3) Whether language skills affect parity of participation is less evident; however, the fact that only full citizenship allows the newcomers to participate in making and altering the laws, and consequently language policies, combined with enhanced communication skills, tends to prove that language skills are not a condition for participation (instrumental language rights such as translation services could be provided, knowing that these cannot encompass too broad a range of languages) but certainly a condition for a more efficient and a less mediated participation. (4) As for parity of esteem, a linguistic arrangement that respects the linguistic identity of



migrants, provides transitory instrumental services, and offers free language training in the receiving state's language without hampering other social goods or economic opportunities safely passes the test.

The argument we offer about language training as a right combines both the republican ideal of a contract and the liberal logic of testing and avoids the corresponding problems we have identified. We are aware of the risk that transnational elites or cultural minority ghettos with individuals reluctant to learn the polity's language(s) will remain.<sup>20</sup> That is why we remain committed to the republican ambition to create a contractual political community of citizens. This remains relevant and could be enforced through mandatory attendance to language courses. Immigrants may require the necessary means to achieve their integration and claim protection from (linguistic) domination; in that sense, language training (in which beneficial socializing side effects might occur) takes on its full meaning when the newcomer is actually in contact with native speakers. On the other hand, the liberal logic may correct paternalistic policies (or the positive liberty claim) a republic imposes on newcomers: language courses must not necessarily be validated by a formal evaluation<sup>21</sup> and should be justified in the name of individual autonomy rather than in the name of loyalty to a set of predetermined values. Language remains a sufficiently thin and (eventually) enabling skill a liberal state is justified to require (e.g., in the name of the value of education), as opposed to cultural or historical pre-entry knowledge. The ideal objectivity and neutrality of tests, as opposed to their costly, biased, and inefficient nature, should be dropped to reconsider language not as a means to control boundaries and define communities but as a tool to foster democratic participation of future citizens.

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<sup>20</sup>This again is a debate that goes beyond the scope of this chapter. Some scholars try to solve the dilemma by recommending strong territorial principles (Van Parijs 2011); others argue for free linguistic market principles (De Swaan 2001). Yet another worry which we have not addressed is intergenerational language transmission.

<sup>21</sup>This point is debatable: should formal evaluation be considered as a necessary incentive to learn? There is no way we can settle the question from a political theory perspective since social psychology and economic theory show the difficulties to control the effects of incentives on the behaviors they aim at modifying (for an overview, see Gneezy et al. 2011). The problem of evaluation is that it focuses the attention of the learner on the test rather than on the reasons to learn in the first place. Politically speaking, it is more interesting to convince people to learn a language in order to vindicate their interests and participate in public discussions rather than to succeed a test.

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